

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

SANDY SMITH,

Plaintiff,

vs.

**1:19-CV-1229
(MAD/DJS)**

NATIONS RECOVERY CENTER, INC.,

Defendant.

APPEARANCES:

OF COUNSEL:

AGRUS LAW FIRM, LLC
4809 N. Ravenswood Avenue
Suite 419
Chicago, Illinois 60640
Attorneys for Plaintiff

JAMES J. PARR, ESQ.

HORMOZDI LAW FIRM, LLC
1770 Indian Trail Lilburn Road
Suite 175
Norcross, Georgia 30093
Attorneys for Plaintiff

SHIREEN HORMOZDI, ESQ.

BARRON, NEWBURGER LAW OFFICE
30 South Main Street
New City, New York 10956
Attorneys for Defendant

ARTHUR SANDERS, ESQ.

Mae A. D'Agostino, U.S. District Judge:

ORDER

Plaintiff commenced this action on October 14, 2019, alleging violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* ("FDCPA"). *See* Dkt. No. 1. On November 18, 2019, Defendant filed its answer. *See* Dkt. No. 10. On January 2, 2020, Plaintiff filed her notice of settlement and on January 3, 2020, the Court entered its Order of Dismissal by Reason of Settlement. *See* Dkt. No. 22.

After Defendant failed to consummate the settlement, Plaintiff moved to reopen this case, which the Court granted on June 25, 2020. *See* Dkt. Nos. 24, 26. In telephone conferences with the Court, Defendant's counsel has indicated that Defendant is no longer in business and that Defendant's counsel has been unable to communicate with Defendant. Currently before the Court is Plaintiff's motion to strike Defendant's answer and for entry of default.

When a defendant fails to engage in discovery or otherwise participate in litigation, courts have routinely found it appropriate to strike their answer and enter default against that defendant. *See Vargas v. Jet Peru-Courier Corp.*, No. 15-cv-6859, 2018 WL 1545699, *1 (E.D.N.Y. Mar. 14, 2018); *Silverman & Silverman, LLP v. Pacifica Foundation*, No. 11-cv-1894, 2014 WL 3724801, *4 (E.D.N.Y. July 25, 2014); *Garis v. Gypsum Resources Materials, LLC*, No. 2:16-cv-2534, 2017 WL 7518924, *1 (D. Nev. Nov. 22, 2017) (holding that an answer may be stricken if the defendant fails to defend itself) (citations omitted). Given that Defendant failed to consummate the settlement agreement reached with Plaintiff and has since failed to participate in this litigation in any way since the Court was forced to reopen this matter, the Court finds that it is appropriate to strike Defendant's answer and direct the Clerk of the Court to enter default against Defendant pursuant to Rule 55(a) of the Federal Rules of Civil Procedure.

Accordingly, the Court hereby

ORDERS that Plaintiff's motion to strike Defendant's answer and for Clerk's entry of default (Dkt. No. 27) is **GRANTED**; and the Court further

ORDERS that the Clerk of the Court is directed to **STRIKE** Defendant's answer (Dkt. No. 10); and the Court further

ORDERS that the Clerk of the Court is directed to enter default against Defendant pursuant to Rule 55(a) of the Federal Rules of Civil Procedure; and the Court further

ORDERS that Defendant shall file its motion for default judgment within **fourteen (14)** days of the date that the Clerk of the Court enters default; and the Court further

ORDERS that the Clerk of the Court shall serve a copy of this Order on the parties in accordance with the Local Rules.

IT IS SO ORDERED.

Dated: October 19, 2020
Albany, New York


Mae A. D'Agostino
U.S. District Judge